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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,167	01/16/2004	Joseph J. Kubler	14364US07	1127
23446	7590	06/23/2005	EXAMINER	
MCANDREWS HELD & MALLOY, LTD			VINCENT, DAVID ROBERT	
500 WEST MADISON STREET			ART UNIT	PAPER NUMBER
SUITE 3400			3628	
CHICAGO, IL 60661			DATE MAILED: 06/23/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/760,167	KUBLER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	David R. Vincent	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 May 2005.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 22-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 22-57 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

***Response to Arguments***

1. Applicant's arguments filed 5/25/05 have been fully considered but they are not persuasive. The applicant argues the applied art '367 fails to teach conversion of voice data into digital packets when the applied art clearly discloses cellular phones converting data into digital packets.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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Claims 22, 26-32, 33-40, 42-49, and 51-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Ayanoglu (5,570,367), as set forth in the previous rejection (2/23/05).

***Response to Arguments***

In re pg. 8, the applicant argues Ayanoglu fails to teach converting sound into digital voice packets.

In response, Ayanoglu discloses cellular phones (e.g., 151; col. 3, line 14) converting data into digital voice packets (data generated by cellular devices are packetized using a packet assembler, col. 3, lines 21-28; and/or using RLP, col. 3, lines 6-12). Therefore, the analog voice that is generated by a human using the phone (151) is converted into digital voice packets before being sent over a digital wireless network (digital networks such as CDMA, TDMA, col. 3, lines 6-12; col. 2, lines 45-56).

In re pg. 8, the applicant argues the examiner fails to identify where in the reference any use of voice packets is recited.

In response, the examiner identified col. 3 (see previous action), and one of ordinary skill in the art would realize that the phones (10, 151, 103, 11, 152) disclosed in Ayanoglu do in fact generate digital voice packets. Ayanoglu even discloses a PDA that transmits voice (col. 3; personal digital assistant,

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col. 2, lines 26-39; col. 3, lines 6-20) with an integrated phone. Ayanoglu discloses cellular phones (e.g., 151; col. 3, line 14) converting data into digital voice packets (data generated by cellular devices are packetized using a packet assembler, col. 3, lines 21-28; and/or using RLP, col. 3, lines 6-12). Therefore, the analog voice that is generated by a human using the phone (151) is converted into digital voice packets before being sent over a digital wireless network (digital networks such as CDMA, TDMA, col. 3, lines 6-12).

In re pg. 8, the applicant argues Ayanoglu fails to teach a network supporting the exchange of voice and data.

Ayanoglu discloses a PDA that transmits voice and data (col. 3; personal digital assistant, col. 2, lines 26-39; col. 3, lines 6-20) and has an integrated phone.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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Claims 23-24, 41, 33, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayanoglu as set forth above, in view of Cripps (US 5,838,730) as set forth in the previous rejection (2/23/05).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 25 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ayanoglu as set forth above, in view of Gilhousen (US 5,280,472), as set forth in the previous rejection (2/23/05).

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS

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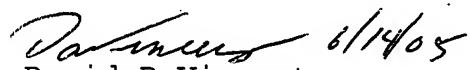
of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R. Vincent whose telephone number is 571 272 3080. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Sough can be reached on 571 272 6799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David R Vincent  
Primary Examiner  
Art Unit 3628

June 14, 2005